

ASSEMBLY BILL

No. 903

Introduced by Assembly Member De La Torre

February 18, 2005

An act to amend Section 53066.3 of the Government Code, relating to cable television.

LEGISLATIVE COUNSEL'S DIGEST

AB 903, as introduced, De La Torre. Cable television franchises.

Existing law requires that if a city, county, or city and county elects to grant an additional cable television franchise in an area where a franchise has already been granted and where an existing cable operator is providing service or certifies that it is ready, willing, and able to provide service, the additional franchisee to wire and serve the same geographical area within a reasonable time and subject to other specified conditions.

This bill would impose the same conditions if any additional cable television franchise is granted to a telephone corporation or its affiliate for an area within the telephone corporation's service area or areas.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature hereby finds and declares the
- 2 following:
- 3 (a) It is the intent of the Legislature, and in the public interest,
- 4 to promote price competition, broader consumer choice, and
- 5 improved customer services in the cable television marketplace
- 6 by removing barriers to open and competitive markets.

1 (b) Section 53066.3 of the Government Code was enacted at a
2 time when communities in this state were predominantly served
3 by a single cable provider and a single telephone company, each
4 offering a single service.

5 (c) Since the enactment of Section 53066.3, the
6 communications marketplace in this state has undergone a radical
7 transformation, with the explosion of new technologies that has
8 finally brought the objectives of competition, consumer choice,
9 and rapid innovation close to reality in this state.

10 (d) Section 53066.3, as it currently exists, poses a threat to the
11 emergence of cable competition in this state by creating a barrier
12 to entry for telephone corporations seeking to provide
13 competitive cable television service in this state.

14 (e) It is the intent of the Legislature, and in the public interest,
15 that local government be given the flexibility to craft cable
16 television franchise areas that encourage competition and best
17 meet the needs of their residents, unencumbered by how
18 incumbent cable operators constructed their systems.

19 (f) It is the further intent of the Legislature, and in the public
20 interest, to continue to ensure that the benefits of cable
21 competition are brought to residents of this state without regard
22 to income or race, and that the same public, educational, and
23 governmental access requirements are applied to all cable
24 television providers, including telephone corporations.

25 SEC. 2. Section 53066.3 of the Government Code is amended
26 to read:

27 53066.3. (a) If a city, county, or city and county elects to
28 grant an additional cable television franchise in an area where a
29 franchise has already been granted to a cable television operator,
30 it shall do so only after a public hearing noticed pursuant to
31 Section 6066, in a newspaper of general circulation as defined in
32 Section 6000, where all of the following have been considered:

33 (1) Whether there will be significant positive or negative
34 impacts on the community being served.

35 (2) Whether there will be an unreasonable adverse economic
36 or aesthetic impact upon public or private property within the
37 area.

38 (3) Whether there will be an unreasonable disruption or
39 inconvenience to existing users, or any adverse effect on future
40 use, of utility poles, public easements, and the public

1 rights-of-way contrary to the intent of Section 767.5 of the Public
2 Utilities Code.

3 (4) Whether the franchise applicant has the technical and
4 financial ability to perform.

5 (5) Whether there is any impact on the franchising authority's
6 interest in having universal cable service.

7 (6) Whether other societal interests generally considered by
8 franchising authorities will be met.

9 (7) Whether the operation of an additional cable television
10 system in the community is economically feasible.

11 (8) Such other additional matters, both procedural and
12 substantive, as the franchising authority may determine to be
13 relevant.

14 (b) Nothing in this section prevents any city, county, or city
15 and county from considering the approval or denial of an
16 additional cable service franchise in any area of the city, county,
17 or city and county, subject to compliance with subdivision (d), or
18 the imposing of additional terms and conditions upon the
19 granting of the franchise, as the city, county, or city and county
20 determines is necessary or appropriate.

21 (c) The city, county, or city and county shall make a final
22 determination as to whether to grant the additional franchise
23 within six months of the application date unless the jurisdiction
24 can establish that the applicant has unreasonably delayed
25 proceedings designed to consider the matters set forth in
26 paragraphs (1) to (8), inclusive, of subdivision (a).

27 (d) Any additional franchise granted to provide cable
28 television service in an area in which a franchise has already
29 been granted and where an existing cable operator is providing
30 service or certifies to the franchising authority that it is ready,
31 willing, and able to provide service, shall require the franchisee
32 to wire and serve the same geographical area within a reasonable
33 time and in a sequence which does not discriminate against lower
34 income or minority residents, and shall contain the same public,
35 educational, and governmental access requirements that are set
36 forth in the existing franchise. This subdivision does not apply
37 where all existing cable operators certify to the franchising
38 authority that they do not intend to provide service within a
39 reasonable time to the area to be initially served by the additional
40 franchise.

1 (e) Notwithstanding subdivision (d), any additional cable
2 television franchise granted to a telephone corporation, as
3 defined in Section 234 of the Public Utilities Code, or an affiliate
4 of that corporation, for an area within that telephone
5 corporation's service area or areas shall require that franchisee
6 to serve its cable television franchise area within a reasonable
7 time and in a sequence that does not discriminate against lower
8 income or minority residents. The additional cable television
9 franchise granted to a telephone corporation or its affiliate shall
10 contain the same public, educational, and governmental access
11 requirements that are set forth in the existing cable television
12 franchise.

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